

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO. 99-40
	:	
DOMINIC PHILIPPOSIAN	:	

MEMORANDUM ORDER

Presently before the court is the parties' joint Motion for a Continuance of Trial. This case has been scheduled since March 3, 2000 for trial on Monday, April 10, 2000. The motion was delivered to chambers after 1:00 p.m. on Friday, April 7, 2000.

The stated reason for the request is to provide additional time for further expert analysis of medical tests and for the completion of a ballistics analysis by an expert retained by the defense. This would be the sixth continuance. This case was initially assigned to Judge McGlynn, then reassigned to Judge Gawthrop and then reassigned to the undersigned. Judge Gawthrop granted two motions to continue trial and the undersigned has granted three such continuances, requested for reasons similar to those still again presented to the court in the instant motion. This case was initially scheduled for trial on March 29, 1999, over a year ago.

It essentially appears that with successive examination of the defendant, some doctor seeks to take further tests and to engage in further analysis of test results and that some other

doctor then claims to need more time to reanalyze earlier results in light of more testing. This is an endless cycle. As to the ballistics analysis, absolutely no explanation is provided as to why an expert could not be retained and could not complete any analysis in less than a year.

The Speedy Trial Act is designed to protect important interests of the public as well as the defendant. It has become difficult for the court conscientiously to conclude that the parties have not had a reasonable time adequately to prepare for trial with the exercise of due diligence.

There is no suggestion by the parties as to how long it would take Dr. Gur to conclude "further in-depth analysis of test results" which she has "recently determined" may be necessary or the length of time reasonably required for a ballistics expert to render a report.

The court cannot conscientiously grant this last minute request for another continuance on the type of showing made by the parties. If the parties wish to obtain still another continuance, they will have to justify it at a hearing on the record at which the court will expect to hear the testimony of the ballistics expert and doctors as to the precise nature of what they are doing, why it reasonably could not have been concluded by this time and, if not, the minimum amount of time in which these analyses and reanalyses can once and for all be

concluded.

ACCORDINGLY, this day of April, 2000,
consistent with the foregoing, a hearing will be held on the
parties Motion for a Continuance at 2:00 p.m., Monday, April 10,
2000 and should such Motion be denied, trial will commence on
Tuesday, April 11, 2000 at 10:00 a.m.

BY THE COURT:

JAY C. WALDMAN, J.